

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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June 5, 2025


**VIA ECF**

Honorable Jennifer L. Rochon  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

The joint request for a stay of the motion for attorneys fees is GRANTED. The stay shall expire thirty days after the decision is entered in Plaintiff's appeal to the Second Circuit. The parties shall provide updates to the Court on the status of the appeal every six months, the first of which shall be due December 5, 2025.

Date: June 5, 2025  
New York, New York

**SO ORDERED.**

  
**JENNIFER L. ROCHON**  
United States District Judge

Re: *Banyan v. Tennariello*,  
17-cv-04942 (JLR)

Your Honor:

I am a Senior Counsel in the office of Muriel Goode-Trufant, representing the defendant in the above-referenced matter. I write on behalf of the parties jointly to respectfully request that your Honor grant a stay in motion practice for attorney's fees until thirty days after Plaintiff's appeal is decided.<sup>1</sup>

By way of brief procedural background, the parties proceeded to trial on April 7, 2025. *See* Civil Docket Entry dated April 7, 2025. On April 14, 2025, the jury rendered a verdict that Officer Tennariello had used excessive force and awarded \$1 nominal damages. *See* Civil Docket Entry dated April 14, 2025. On May 5, 2025, the Court entered judgment. *See* Civil Docket Entry No. 368. On May 28, 2025, plaintiff filed his motion to be awarded partial attorney's fees and costs. *See* Civil Docket Entry Nos. 380-382. On June 3, 2025, plaintiff filed his notice of appeal. *See* Civil Docket Entry No. 383. Defendant has not yet filed its opposition.

"[N]otwithstanding a pending appeal, a district court retains residual jurisdiction over collateral matters, including claims for attorneys' fees. If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under subdivision (d)(2)(B) a new period for filing after

<sup>1</sup>Plaintiff joins in this request with the understanding that pursuant to the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York § 54.1, the deadline for any party to file a bill of costs is stayed until 30 days after the outcome of the appeal by operation of law.

the appeal has been resolved.” *Mar-Can Transp. Co. v. Loc. 854 Pension Fund*, No. 20 Civ. 8743 (CS), 2024 U.S. Dist. LEXIS 149375 (S.D.N.Y. August 21, 2024) (internal citations omitted) (citing *Tancredi v. Metro. Life Ins. Co.*, 378 F.3d 220, 225 (2d Cir. 2004); *Topps Co. Inc. v. Koko’s Confectionary & Novelty*, No. 16 Civ. 5954, 2020 U.S. Dist. LEXIS 191302, at \*2 (S.D.N.Y. Oct. 15, 2020) (quoting Fed. R. Civ. P. 54(d)(2) Advisory Committee’s Note (1993))

Mindful of this Court’s preference for the parties to work together and come to agreement whenever possible, the parties have conferred and mutually agree that, in light of plaintiff’s appeal on the merits, a stay of motion practice on attorney’s fees in this matter is appropriate.

Accordingly, the parties jointly and respectfully request that the Court grant a stay in motion practice for attorney’s fees until thirty days after Plaintiff’s appeal is decided.

Respectfully Submitted,

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KellyAnne Holohan  
*Senior Counsel*  
Special Federal Litigation Division

cc: All Counsel of Record (By ECF)